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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,746	01/22/2002	Li Chi Sang	6453	3568

7590 04/02/2003

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EXAMINER

VORTMAN, ANATOLY

ART UNIT	PAPER NUMBER
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2835

DATE MAILED: 04/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

10/054,746

Applicant(s)

SANG ET AL.

Examiner

Anatoly Vortman

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2835

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-9 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, and 10, are rejected under 35 U.S.C. 102(b) as being anticipated by US/4,363,016 to Unger.

Regarding claim 1, Unger disclosed (Fig. 1, 2, 4B) a circuit breaker switch comprising:

a rocker (24) that is positionable between a first on position and a second off position; an actuator element (18) that is coupled to the rocker (24) such that it causes a first electrically conductive contact portion (21) to move into contact with a second electrically conductive contact portion (20) when said rocker (24) is in the on position (Fig. 1); and

a dielectric separator element (80) that is urged between the first (21) and second (20) electrically conductive contact portions in the event of excess current being passed between the first (21) and second (20) conductive contact portions (column 5, lines 54+), (Fig. 2).

Regarding claims 2 and 3, Unger disclosed a trip indicator (58) that is coupled to said dielectric separator element (80) such that said trip indicator (58) provides a visual indication that said dielectric separator element (80) has moved in the event of excess current being passed

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between the first and second electrically conductive contact portions (21, 20), wherein switch may be reset by depressing said trip indicator (58).

Regarding claim 4, Unger disclosed that said actuator element (18) causes the first electrically conductive contact portion (21) to move into contact with the second electrically conductive contact portion (20) by being forced between the first electrically conductive contact portion (21) and an inner wall (31) of a switch housing (11).

Regarding claim 5, Unger disclosed that said dielectric separator element (80) is urged between the first (21) and second (20) electrically conductive contact portions, (Fig. 2). The functional recitation that said separator is urged, "at least in part, by having the second electrically conductive contact portion move away from the first electrically conductive contact portion in the event of excess current being passed between the first and second electrically conductive contact portions" has not been given patentable weight because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC § 112, 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

Regarding claim 6, Unger disclosed that said dielectric separator (80) is urged between the first (21) and second (20) electrically conductive contact portions, at least in part, by a bias spring (25) that urges said dielectric separator element (80) against the second electrically conductive contact portion (20).

Regarding method claim 10, the method steps recited in the claim are inherently necessitated by the device structure as disclosed by Unger.

***Allowable Subject Matter***

3. Claims 7-9 are allowed.

4. The following is a statement of reasons for the indication of allowable subject matter:

claims 7-9 are allowed, at least in part, because independent claim 7 recites “an actuator element...causes a first electrically conductive contact portion to move in a first direction” and “said second electrically conductive contact portion being mounted on a bimetallic element”.

The aforementioned recitations in combination with remaining limitations of claim 7, are believed to render said claim 7 and, subsequently dependent claims 8 and 9 patentable over the art of record.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

US/4123737, 4379278, 4814739, 6377158, 5936505, 5918361, 5742219, 4833439, 4068203, 4868535, and 4528538 disclosed rocker actuated bimetallic circuit breakers with dielectric separators.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anatoly Vortman whose telephone number is 703-308-7824.

The examiner can normally be reached on 9:30-6:00, Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Darren Schuberg can be reached on 703-308-4815. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

Anatoly Vortman  
Primary Examiner  
Art Unit 2835

A.V.  
February 3, 2003

A handwritten signature in cursive script, appearing to read "A. Vortman", followed by a horizontal line.